

आयकर अपीलीय अधिकरण 'ए' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI

माननीय श्री मनोज कुमार अग्रवाल ,लेखा सदस्य एवं
माननीय श्री मनु कुमार गिरि, न्यायिक सदस्य के समक्ष।
BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER
AND HON'BLE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER

आयकरअपील सं./ ITA No.2090/Chny/2024
(निर्धारणवर्ष / Assessment Year: 2017-2018)

Shri Santhosh Kumar Gopal,
46B, Northmada Street,
Maduravoyal,
Thiruvallur 600 095.

Vs. The Income Tax Officer,
Non Corporate Ward 17(4)
Chennai 600 006.

[PAN: BRBPS 5668B]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से /Respondent by

: Shri S.P. Chidambaram, Advocate
: Shri ARV Srinivasan, IRS, Addl. CIT.

सुनवाई की तारीख/Date of Hearing

: 06.11.2024

घोषणा की तारीख /Date of Pronouncement

: 08.11.2024

आदेश / O R D E R

PER MANU KUMAR GIRI (Judicial Member)

This appeal by the assessee is arising out of the order of the Additional/Joint Commissioner of Income Tax (Appeals), Office of the Commissioner of Income Tax (Appeal), Panaji in Order No.ITBA/APL/S/250/2024-25/1065778564 (1), dated 19.06.2024. The assessment was framed by the Income Tax Officer, Non Corporate Ward 17(4), Chennai for the assessment year 2017-2018, u/s. 143(3) of the Income Tax Act, 1961 (in short 'the Act') vide order dated 16.12.2019.

2. Brief facts of the case are that the assessee has filed his return of income for AY 2017-18 declaring total income of Rs.6,45,973/-. The case was selected for limited scrutiny as per CBDT scrutiny selection guidelines to examine cash deposit during demonetization period. Accordingly, notice u/s.143(2) of the Act dated 24.09.2018 was issued from office of Non-Corporate Ward-18(3), Chennai. Subsequently, notice u/s.142(1) of the Act was issued to the appellant on 23.04.2019. The case was received on transfer as per notification of JCIT (Non Corporate Range -17) dated 30.10.2019 to the office of ITO (Non Corp) Ward - 17(4), Chennai and notice u/s.142(1) r.w.s 129 of the Act were issued to the appellant on 15.11.2019 requesting him to explain the cash deposits amounting to Rs.8,60,000/- made during demonetization period. In compliance to the said notice the appellant has submitted that the said cash deposits are made partially from past saving (Rs.5,50,000/-), cash withdrawn from appellant's wife account after taking jewel loan (Rs.3,00,000/-) and amount received as gift on puberty function of appellant's daughter (Rs.2,50,000/-). The AO upon examining the pattern of cash deposit observed that Rs.2,60,000/- was deposited on 12.12.2016 which was after the puberty function of appellant's daughter held on 27.11.2016. Hence, the Id. Assessing Officer accepted the same as explained money. Further, the Id.AO find that the claim of the appellant that Rs.5,50,000/- was kept as past savings lacks substance. The AO inferred from deposit pattern that if it was past savings, the appellant could have deposited the entire amount in a single transaction but in this case the appellant has made cash deposit amounting to Rs.6,00,000/- in two different transactions. After giving due consideration to past savings, the AO has

accepted Rs.2,50,000/- as explained money and the remaining portion of Rs.3,00,000/- is added back in the total income of the appellant as unexplained money u/s.69/69A of the Act during the year under consideration. Aggrieved, by the order, the assessee filed an appeal before the CIT(A).

3. Ld. CIT(A) after perusal of the assessment order came to a conclusion that the assessee utterly failed to furnish the clinching documentary evidence to support his contention that the cash deposits made by him also form part of his wife's savings and no particular segregation of the amounts deposited by the appellant and his wife duly supported by documentary evidence is furnished during the whole assessment proceedings. Further, on careful examination of the bank account statement furnished in the submissions made by the appellant, the CIT(A) observed that the appellant has spent almost all his salary in the same month and his wife has spent almost 60% to 70% of her salary in the same month. So there is a limited scope of past savings as contended by the appellant. Hence, he confirmed the action of the Ld. Assessing Officer. Aggrieved by the order of the Id. CIT(A), the assessee is in appeal before us.

4. Before us, the Id. Counsel submitted that the cash deposits made by the assessee also form part of his wife's savings and while computing income of assessee's wife income, basic exemption of Rs.2,50,000/- has not been considered by the Id.AO. Per contra, the Id.DR relied upon the order of the Id.CIT(A) and prayed for the dismissal of the appeal.

5. We have heard the rival submissions and perused the record, impugned orders. We find that the Id.AO after giving due consideration of past savings has allowed Rs.2,50,000/- out of total claim of Rs.5,50,000/- is on harder side. In normal life deposits from wife is not alien. Therefore, considering the entire facts and circumstances of the case and to cut short the litigation we further treat Rs.2,50,000/- as genuine being balance available from pledging gold jewelry. Hence, we delete the addition of Rs.2,50,000/- out of addition sustained by the Id.CIT(A) of Rs.3,00,000/-. Consequently, Rs.50,000/- is only sustained and treated as unexplained out of entire addition made by the Id.AO of Rs.5,50,000/-.

6. In result, appeal of the assessee is partly allowed.

Order pronounced in the open court on 8th day of November, 2024 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य / ACCOUNTANT MEMBER

Sd/-

(मनु कुमार गिरि)

(MANU KUMAR GIRI)

न्यायिक सदस्य / JUDICIAL MEMBER

चेन्नई Chennai:

दिनांक Dated :08-11-2024

KV

आदेश की प्रतिलिपि अग्रेषित /Copy to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT, Chennai/Coimbatore/Madurai/Salem.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF